

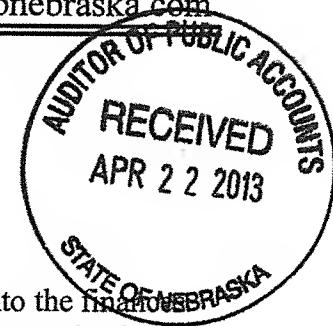
R. Scott Japp

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April 22, 2013



Attorney General Bruning:

I am requesting that the State auditor's office perform an investigation into the financials of the Papio Missouri Natural Resource District. Huge discrepancies between bank statements, audit reports, budget and monthly financial reports, and the lack of cooperation from staff and some board members lead me to believe there could be issues.

The problems I have noticed started during the fiscal year beginning July 1, 2012. On July 10, 2012, August 7, 2012, and September 11, 2012 the board was presented with budget proposals. All three proposals indicated that cash-on-hand in the general accounts totaled \$5,398,300, cash-on-hand in the Watershed Fund totaled \$4,883,518, and all cash available totaled \$11,597,012.

Discrepancy #1

The June 30, 2012 bank statement for the Wells Fargo general fund account #11550068207 reported a balance of \$9,499,337.40. The board-approved annual audit report ending June 30, 2012 prepared by Orizon CPAs, LLC reported (on page 29) checking and petty cash to be **\$9,468,948**. The difference between the funds in the bank account and the amount reported on the audit report was \$30,389 (the difference is in accounts payable). Meanwhile, the general fund balance provided to the board members was **\$5,398,300**. This represents an **under report of \$4,070,648** (\$5,398,300 vs. \$9,468,948).

Discrepancy #2

The budget proposals provided to the board members included cash-on-hand in the Watershed Fund. All three proposals on July 10, 2012, August 7, 2012, and September 11, 2012 reported cash in the Watershed Fund account to be **\$4,883,518**. However, the Wells Fargo Papio-Missouri NRD bond account #80417800 reported an ending balance, as of June 30, 2012, to be \$5,001,371.35. The approved annual audit report ending June 30, 2012 prepared by Orizon CPAs, LLC reported (on page 29) the money market account to hold **\$5,001,370**. The bond fund balance provided to the board members for budgeting purposes was **under reported by \$17,852** (\$4,883,518 vs. \$5,001,370).

Discrepancy #3

In all three budget proposals provided to the board members on July 10, 2012, August 7, 2012, and September 11, 2012 all cash available was reported to be **\$11,597,012**. The board-approved annual audit report ending June 30, 2012 prepared by Orizon CPAs, LLC reported (on page 29) total general fund accounts to be **\$15,480,859**. The total cash balance provided to the board members for budgeting purposes was **under reported by \$3,883,847** (\$11,597,012 vs. \$15,480,859).

With the staff providing false and misleading financial information during our budgeting process, the board over budgeted \$3,883,847 in property tax revenue. Without over budgeting, the budgeted rate of 0.032753 would have been lowered by 0.0074 to a mill levee of 0.025353. This difference would have provided the public with tax relief.

Project Issues:

In 2010 the Papio-Missouri NRD issued general obligation bonds under LB 160.

\$13,109,775 of general obligation bonds was approved by the board members for the following projects:

| | |
|-------------|----------------------------------|
| \$2,622,195 | <i>Western Sarpy/Clear Creek</i> |
| \$2,208,400 | <i>Floodway Purchase</i> |
| \$3,626,975 | <i>Pigeon Jones Site</i> |
| \$1,500,000 | <i>Zorinsky Basin</i> |
| \$ 300,000 | <i>Damsite 15</i> |
| \$2,852,205 | <i>Damsite WPRB-5</i> |

At the end of our June 30, 2012 fiscal year, according to staff the bond funds remaining were \$4,883,517 as follows:

| | |
|-------------|----------------------------------|
| \$ 670,187 | <i>Western Sarpy/Clear Creek</i> |
| \$ 815,291 | <i>Floodway Purchase</i> |
| \$ 0 | <i>Pigeon Jones Site</i> |
| \$1,353,626 | <i>Zorinsky Basin</i> |
| \$ 0 | <i>Damsite 15</i> |
| \$2,044,413 | <i>Damsite WPRB-5</i> |

The following discrepancies show up in the budgeting and financing for the projects starting July 1, 2012 through January 31, 2013:

Issue #1

The information provided by staff reported Escrow Funds remaining in the Floodway Purchase account to be \$670,187. However, \$265,000 was reported for the beginning balance of this account on July 1, 2012 (per the June 30, 2013 fiscal year-end budget). This bond account is short \$405,187.

Issue #2

The information provided by staff reported no Escrow Funds remaining in the Pigeon/Jones Site. However, \$550,291 was reported for the beginning balance of this account on July 1, 2012 (per the June 30, 2013 fiscal year-end budget). My question is: where did these additional bond funds come from, since the NRD board did not vote to approve additional bonds except for the original 2010 bond offering of \$3,626,975?

During our fiscal year June 30, 2012 budget process for the Pigeon/Jones Site, we budgeted \$5,476,291 in total income plus \$1,243,709 from general revenue to cover the budgeted expenses of \$6,720,000. However, from July 1, 2012 through January 31, 2013, only \$1,507,969 of revenues were received. With actual revenues of \$1,507,969

and the budgeted general fund revenues of \$1,243,709, only \$2,751,678 was available to spend on this project. However, through the end of January 2013, total expenditures for this project were **\$3,788,848**. This means **over spending of \$1,037,170** was done without board discussion or approval.

Issue #3

During the budgeting process for WPRB-5, a majority of the board approved \$5,852,447 of additional bonds for this project. However, in December 2012, a majority of the board, which included exiting board members, voted to issue **\$15,600,000** in bond revenue, but the staff obtained **\$16,000,000** in bond revenue.

The first problem is that the staff obtained **\$400,000 more in bonds than what was authorized**. Second, the majority of the board voted to approve approximately **\$10,000,000 in excess of what was budgeted**. Today, these additional funds are sitting in a bank account at Wells Fargo Bank. In a zero-based budgeting process, how can this be done?

Issue #4

The fiscal year June 30, 2012 budget for Zorinsky Basin reported cash-on-hand in the bond escrow account at \$1,353,626, board budgeted issuing bonds of \$2,161,234, and a shortfall for this account of \$150,140, to come from general revenues. These bonds were not approved by the board, making this project short revenues of over \$2 million. However, the project has moved forward with \$2.2 million spent through January 31, 2013. This results in **a shortfall of approximately \$700,000** to come from additional general funds.

Other Problems:

With **\$5,398,300** of general cash available, per the budget, plus **\$3,398,039** of unused bond funds (Zorinsky Basin and WPRB-5, the only available bond funds), **total cash available should have been \$8,796,339**.

The January 31, 2013 financial report provided to the board members reported bond revenues of **\$15,600,000**. This, in my opinion, was done to falsely make it appear like the Papio NRD had funds to cover the over spending. The staff erroneously reported the \$15,600,000 of bond revenue to the account named Papio DS-15A. The board never approved any bonds for this project, nor did the PMNRD ever receive the \$15,600,000.

Again, I believe this number was added to make it appear like we had funds in the account. The real accounting should be **a shortfall of \$9,288,627** – the **\$6,311,392** year-to-date balance minus the erroneous number of **\$15,600,000**.

As of January 31, 2013, all cash should have been exhausted from the Wells Fargo general fund account #11550068207 – \$8,796,339 (see above) less the \$9,288,627. It appears the bond escrow funds are being misused.

As another example of misusing the bond escrow fund, on July 1, 2012 the WPRB-5 bond escrow balance was **\$2,044,413**. Through January 31, 2013, total spending for this project was **\$4,784,077**. This **\$2,739,664 excess** was funded using general funds **AND** the misappropriation of bond escrow funds from the other bonded projects.

On January 4, 2013, a withdrawal of \$1,019,139.15 was made from the Wells Fargo Papio-Missouri NRD bond account #80417800 for WPRB-5. This was a portion of a \$2,073,442 payment to Hawkins Construction. This withdrawal left **\$911,989.29** in the bond escrow account. But, the bond escrow account should hold, at minimum, **\$1,485,478** (\$815,291 for Western Sarpy/Clear Creek project and \$670,187 for the Floodway Purchase program). At the present time, the Wells Fargo Papio-Missouri NRD bond account #80417800 is **short approximately \$573,489** in funds.

It appears there must be multiple sets of books: one that the staff provides the board for budgeting, one for the monthly financial reports, and another for the actual cash transactions reported on the bank statements but are not provided to the board members. For example, the Wells Fargo general fund account #11550068207 shows there was a total of **\$22,887,682.87** of withdrawals, but the monthly financial reports provided by staff to the board reported expenses of **\$19,686,311.75 – a difference of \$3,201,371.12**. Why? I surely think these discrepancies need to be investigated with possible legal action. You are welcome to contact me at any time.

Thank you,


Scott Japp
Papio-Missouri River Natural Resources
District 1, Board Member

Papio Missouri NRD
APA's Response to Mr. Japp
June 5, 2013

The following concerns, italicized below, were noted by Mr. Japp in a letter received by the APA on April 22, 2013. The Auditor of Public Accounts' (APA) Responses, bolded below, to any concerns are noted in bold.

Introduction: ***The problems I have noticed started during the fiscal year beginning July 1, 2012. On July 10, 2012, August 7, 2012, and September 11, 2012 the board was presented with budget proposals. All three proposals indicated cash on-hand in the general accounts totaled \$5,398,300, cash-on-hand in the Watershed Fund totaled \$4,883,518, and all cash available totaled \$11,597,012.***

APA Response: Using the FY2013 Budget adopted by the Board at its September 13, 2012, Budget Hearing meeting, the APA agreed that the Cash on Hand in the General account was \$5,398,300 and the Total Cash on Hand was \$11,597,012, as indicated above. However, the \$4,883,518 was actually the balance of the Bond Revenue Escrow account, not the Watershed Fund account, as noted by Mr. Japp. The Watershed Fund account had a balance of \$249,970 according to the adopted FY2013 Budget.

The APA also determined that this Total Cash on Hand of \$11,597,012 agreed to the approved budget document submitted to our office for FY2013. The total beginning balance noted on that document was \$11,647,013 as it also included a Certificate of Deposit Investment of \$50,000, which was noted in a separate category on the FY2013 Budget (remaining \$1 variance is insignificant).

Discrepancy #1: *The June 30, 2012 bank statement for the Wells Fargo general fund account #11550068207 reported a balance of \$9,499,337.40. The board-approved annual audit report ending June 30, 2012 prepared by Orizon CPAs, LLC reported (on page 29) checking and petty cash to be \$9,468,948. The difference between the funds in the bank account and the amount reported on the audit report was \$30,389 (the difference is in accounts payable). Meanwhile, the general fund balance provided to the board members was \$5,398,300. This represents an under report of \$4,070,648 (\$5,398,300 vs. \$9,468,948).*

APA Response: The APA verified that the July 2012 bank statement for account #1155068207 provided by Mr. Japp showed a beginning balance of \$9,499,337.40. In addition, the APA verified the FY2012 audit report stated checking accounts and petty cash to be \$9,468,948 within the Unrestricted and Unreserved section (see the Deposits and Investments Footnote on p.29).

The APA requested information from the Papio Missouri NRD to support the \$30,389 variance. The NRD provided a bank reconciliation report from their accounting system that showed the bank balance of \$9,499,337.40 and the accounting system cash on hand on \$9,468,774.70. The variance is due to timing issues at the end of the year. The NRD had

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\$67,705.04 in outstanding deposits at June 30, 2012, as well as outstanding checks in the amount of \$98,267.73. The difference in these two amounts is \$30,562.69. Outstanding items include transactions that have been recorded in the accounting system as of June 30, 2012, but that have not yet been recorded by the bank. See the attached document titled "(1) 6-30-12 bank reconciliation."

The NRD also explained that there is \$174 used for petty cash, which brings the total variance from \$30,562.69 to \$30,388.69 – or the variance identified by Mr. Japp.

The APA also verified that the FY2013 Budget, as adopted by the Board on September 13, 2012, noted Cash on Hand in the General account of \$5,398,300.

The NRD provided reconciliation between the general account cash on hand between the 2013 budget and the bank. The majority of the variance is due to expenditures that were paid in July but that the NRD had attributed to the FY12 obligations and had not planned to carry forward. The NRD provided a listing of the checks written in July. Please see the document titled "(2)(3) cash on hand calculation." A summary of the reconciliation is included below:

| Description | Amount |
|-----------------------------|------------------------|
| Bank Balance | \$ 9,499,337.40 |
| Outstanding Bank Items | \$ (30,562.69) |
| Reconciled Balance | \$ 9,468,774.71 |
| 7/6/2012 Checks | \$ (77,056.17) |
| 7/12/2012 Checks | \$ (4,111,270.37) |
| Escrow Transfers in Transit | \$ 114,285.28 |
| Escrow Interest | \$ 3,567.02 |
| Total | \$ 5,398,300.47 |

Discrepancy #2: The budget proposals provided to the board members included cash-on-hand in the Watershed Fund. All three proposals on July 10, 2012, August 7, 2012, and September 11, 2012 reported cash in the Watershed Fund account to be \$4,883,518. However, the Wells Fargo Papio-Missouri NRD bond account #80417800 reported an ending balance, as of June 30, 2012, to be \$5,001,371.35. The approved annual audit report ending June 30, 2012 prepared by Orizon CPAs, LLC reported (on page 29) the money market account to hold \$5,001,370. The bond fund balance provided to the board members for budgeting purposes was under reported by \$117,852 (\$4,883,518 vs. \$5,001,370).

APA Response: As previously noted in the APA Response to the Introductory Issue above, the \$4,883,518 balance appears to be the Bond Revenue Escrow account balance, and not the Watershed Fund, per the FY2013 Budget.

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The July 2012 bank statement for account #80417801 provided to the APA by Mr. Japp included a beginning balance of \$5,001,371. In addition, the FY2012 audit report stated the Money market fund to be \$5,001,370 within the Restricted section (see Deposits and Investments Footnote on p.29).

The NRD included the \$117,852 in the general cash account, rather than the Bond Escrow account, as noted previously. See above for documentation. These are primarily reimbursements from the bond trust account for project expenses already paid from the general account.

Discrepancy #3: *In all three budget proposals provided to the board members on July 10, 2012, August 7, 2012, and September 11, 2012 all cash available was reported to be \$11,597,012. The board-approved annual audit report ending June 30, 2012 prepared by Orizon CPAs, LLC reported (on page 29) total general fund accounts to be \$15,480,859. The total cash balance provided to the board members for budgeting purposes was under reported by \$3,883,847 (\$11,597,012 vs. \$15,480,859).*

APA Response: The APA verified that the FY2013 Budget, adopted by the Board on September 13, 2012, did include Total Cash on Hand of \$11,597,012. In addition, the 2012 audit report did state the Total Deposits and Investments to be \$15,480,859 in the General Fund (see the Deposits and Investments Footnote on p.29). This variance has been addressed in the previous APA Responses included above. These variances are summarized below.

| Per FY2013 Budget (adopted by Board) | Per FY2012 Audit Report (General Fund) | Variance |
|--|---|---|
| General account balance | \$5,398,300 | (\$4,070,648) <i>Variance addressed in Discrepancy #1 above</i> |
| County Treasurer's balance | \$562,197 | \$0 |
| Bond Revenue Escrow balance | \$4,883,518 | (\$117,852) <i>Variance addressed in Discrepancy #2 above</i> |
| Ice Jam account balance | \$142,945 | |
| Watershed Fund balance | \$249,970 | |
| Wetland Banking account balance | \$5,428 | |
| Subtotal | \$398,343 | (\$1) <i>Variance insignificant</i> |
| Papio Creek Watershed Partnership | \$354,654 | |
| Total Cash per Budget | \$11,597,012 | |
| Uninsured Liability Fund | \$50,000 | |
| Total Cash per APA Budget Doc | \$11,647,012 | |
| <i>Note: The PCWP is considered Fiduciary Funds and is therefore not shown in the General Fund activity on p.29 of the Audit Report. Instead, you will find this amount on the Statement of Net Assets for Fiduciary Funds as Cash and cash equivalents. See p.19 of the Audit Report.</i> | | |
| Unrestricted but Reserved Certificates of deposit | \$50,000 | \$0 |
| Total deposits and investments per APA per Audit Report | <u>\$15,480,859</u> | |

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Issue #1

With the staff providing false and misleading financial information during our budgeting process, the board over budgeted \$3,883,847 in property tax revenue. Without over budgeting, the budgeted rate of 0.032753 would have been lowered by 0.0074 to a mill levee of 0.025353. This difference would have provided the public with tax relief.

APA Response: **The APA does not feel the information is false or misleading, as the NRD has provided adequate documentation to support the differences.**

Issue #1:

The information provided by staff reported Escrow Funds remained in the Floodway Purchase account to be \$670,187. However, \$265,000 was reported for the beginning balance of this account on July 1, 2012 (per the June 30, 2013 fiscal year-end budget). This bond account is short \$405,187.

APA Response: **The \$670,187 described above, does not appear to be related to the Floodway Purchase project, as indicated by Mr. Japp; instead that is the bond escrow revenue balance (cash on hand) for the Western Sarpy/Clear Creek project. According to the information provided to the APA by Mr. Japp, the Floodway Purchase project should have a balance of \$815,291 (\$2,208,400 original issue/revenue, less \$1,393,109 expenses). The APA verified that the FY2013 Budget, adopted by the Board on September 13, 2012, reported bond escrow revenue balance (cash on hand) of \$265,000 for the Floodway Project, a difference of \$550,291. However, the APA also observed that the list of expenses provided by Mr. Japp for the Floodway Purchase project noted a proposed transfer of \$550,291 out of the Floodway Purchase and into the Pigeon/Jones project. Therefore, the balance for the Floodway project was reduced by \$550,291 and the balance for the Pigeon/Jones project was increased by \$550,291 for the FY2013 budget. In total, there was no change in the overall Bond Revenue Escrow balance for all projects.**

Issue #2:

The information provided by staff reported no Escrow Funds remaining in the Pigeon/Jones Site. However, \$550,291 was reported for the beginning balance of this account on July 1, 2012 (per the June 30, 2013 fiscal year-end budget). My question is: where did these additional bond funds come from, since the NRD board did not vote to approve additional bonds except for the original 2010 bond offering of \$3,626,975?

During our fiscal year June 30, 2012 budget process for the Pigeon/Jones Site, we budgeted \$5,476,291 in total income plus \$1,243,709 from general revenue to cover the budgeted expenses of \$6,720,000. However, from July 1, 2012 through January 31, 2013, only \$1,507,969 of revenues were received. With actual revenues of \$1,507,969 and the budgeted general fund revenues of \$1,243,709, only \$2,751,678 was available to spend on this project. However, through the end of January 2013, total expenditures for this project were \$3,788,848. This means over spending of \$1,037,170 was done without board discussion or approval.

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APA Response: As described above, it appears \$550,291 was transferred out of the Floodway Purchase and into the Pigeon/Jones project. Therefore, the balance for the Floodway project was reduced by \$550,291 and the balance for the Pigeon/Jones project was increased from \$0 to \$550,291 for the FY2013 budget.

It appears Mr. Japp defined overspending using the actual and budgeted revenues compared to the actual expenditures within this specific project (Pigeon/Jones). The APA would be concerned if the budgeted expenditures in TOTAL for the NRD were exceeded by actual expenditures by the end of the fiscal year.

Issue #3: *During the budgeting process for WPRB-5, a majority of the board approved \$5,852,447 of additional bonds for this project. However, in December 2012, a majority of the board, which included exiting board members, voted to issue \$15,600,000 in bond revenue, but the staff obtained \$16,000,000 in bond revenue. The first problem is that the staff obtained \$400,000 more in bonds than what was authorized. Second, the majority of the board voted to approve approximately \$10,000,000 in excess of what was budgeted. Today, these additional funds are sitting in a bank account at Wells Fargo Bank. In a zero-based budgeting process, how can this be done?*

APA Response: In regards to the issue that the NRD collected \$16,000,000 instead of the authorized \$15,600,000 in bonds, the APA observed the Financial Report presented to the Board at their May 9, 2013 meeting indicating that the WPRB-5 project had \$15,838,629 in Bond Revenue.

The NRD provided the Closing Memorandum for the issuance of these bonds, which indicated the principal amount to be \$15,600,000. The NRD received more than the approved amount due to a premium on the bonds, as follows:

| Description | Amount |
|----------------------------|-------------------------|
| Principal Amount | \$ 15,600,000.00 |
| Bond Premium | \$ 457,118.65 |
| Underwriter's Discount | \$ (171,600.00) |
| Ratings Fee | \$ (17,000.00) |
| Costs of Issuance | \$ (29,890.00) |
| Amount NRD Received | \$ 15,838,628.65 |

See the document attached titled, "(4) Closing Memo – Papio-Mo River NRD FCWQEBs 2013."

The APA confirmed that the FY2013 Budget showed expected bond revenue of \$5,852,447 for the WPRB-5 project. The APA also verified that the Board approved a resolution to issue \$15,600,000 of bonds for the WPRB-5 project on December 13, 2012. Again, as noted previously, the NRD is primarily only limited to its budget on the expenditure side,

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rather than on the revenue side. The NRD can approve more revenue than budgeted. Also, it is important to consider the budget in TOTAL for the NRD, as there may have been several other projects that had less revenue than budgeted.

Issue #4:

The fiscal year June 30, 2012 budget for Zorinsky Basin reported cash-on-hand in the bond escrow account at \$1,353,626, board budgeted issuing bonds of \$2,161,234, and a shortfall for this account of \$150,140, to come from general revenues. These bonds were not approved by the board, making this project short revenues of over \$2 million. However, the project has moved forward with \$2.2 million spent through January 31, 2013. This results in a shortfall of approximately \$700,000 to come from additional general funds.

APA Response: The APA verified that the FY2013 Budget for Zorinsky Basin included Cash on Hand of \$1,353,626, Bond Revenue of \$2,161,234, and a shortfall of \$150,140. The APA also verified that the motion to approve a bond issuance of \$2,100,000 for Zorinsky failed per the December 13, 2012 meeting minutes. Lastly, the APA verified that the project had expenditures as of April 30, 2013 (per the Financial Report presented to the Board on May 9, 2013) of \$2,204,022.92, with \$0 revenue.

As noted previously, the APA is primarily concerned with whether the budgeted expenditures were exceeded by actual expenditures in TOTAL for the NRD by the end of the fiscal year. In this particular case, the Watershed Fund in total, which includes the Zorinsky project in addition to the WPRB-5 and Papio DS-15A project, was still well below budgeted expenses and actually had revenues in excess of expenses by more than \$7 million as of April 30, 2013.

Other Problems: With \$5,398,300 of general cash available, per the budget, plus \$3,398,039 of unused bond funds (Zorinsky Basin and WPRB-5, the only available bond funds), total cash available should have been \$8,796,339.

APA Response: Per the FY2013 Budget, General Cash on Hand agrees to \$5,398,300. The FY2013 Budget also notes \$4,883,518 in the Bond Revenue Escrow account. As previously noted, the Total Cash on Hand as of July 1, 2012 (beginning of FY2013) was \$11,597,012. This includes the general cash, bond revenue escrow, and other items, per the FY2013 Budget.

The January 31, 2013 financial report provided to the board members reported bond revenues of \$15,600,000. This, in my opinion, was done falsely make it appear like the Papio NRD had funds to cover the over spending. The staff erroneously reported the \$15,600,000 of bond revenue to the account named Papio DS-15A. The board never approved any bonds for this project, nor did the PMNRD ever receive the \$15,600,000. Again, I believe this number was added to make it appear like we had funds in the account. The

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real accounting should be a shortfall of \$9,288,627 – the \$6,311,392 year-to-date balance minus the erroneous number of \$15,600,000.

APA Response: As Mr. Japp noted in Issue #3 above, the board did approve bonds of \$15,600,000 for the WPRB-5 project. The APA also noted that the January 31, 2013 Financial Report presented to the Board at the February 14, 2013 shows \$15,600,000 in Bond Revenue for the Papio DS-15A Project. This appears to have been recorded in error and subsequently corrected. The February 28, 2013 Financial Report, presented to the Board at the March 14, 2013 meeting, shows that the funds were moved to WPRB-5 and that Papio DS-15A had \$0 in Bond Revenue. When the funds were moved, it appears an additional \$238,628.65 of Bond Revenue was added to WPRB-5.

The NRD provided the Closing Memorandum for the 2013 bond issuance, as noted above. The additional \$238,628.65 was derived as follows:

| Description | Amount |
|------------------------|----------------------|
| Premium | \$ 457,118.65 |
| Underwriter's Discount | \$ (171,600.00) |
| Ratings Fee | \$ (17,000.00) |
| Costs of Issuance | \$ (29,890.00) |
| Total | \$ 238,628.65 |

There does not appear to be a shortfall of \$9,288,627, as indicated by Mr. Japp.

As of January 31, 2013, all cash should have been exhausted from the Wells Fargo general fund account #11550068207 - \$8,796,339 (see above) less the \$9,288,627. It appears the bond escrow funds are being misused.

APA Response: The APA Responses above have previously addressed this concern. Both the \$8,796,339 and the \$9,288,627 amounts calculated by Mr. Japp appear to have been calculated in error; therefore, this concern is no longer valid.

As another example of misusing the bond escrow fund, on July 1, 2012 the WPRB-5 bond escrow balance was \$2,044,413. Through January 31, 2013, total spending for this project was \$4,784,007. This \$2,739,664 excess was funded using general funds AND the misappropriation of bond escrow funds from the other bonded projects.

APA Response: As noted in the APA Responses above, the Board approved the issuance of \$15,600,000 in bonds for the WPRB-5 project. This Bond Revenue was not recorded properly as of the January 31, 2013 Financial Report; however, it was subsequently corrected. The WPRB-5 project had \$9,387,819 in revenues in excess of expenses as of the April 30, 2013 Financial Report (presented to the Board on May 9, 2013).

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On January 4, 2013, a withdrawal of \$1,019,139.15 was made from the Wells Fargo Papio-Missouri NRD bond account #80417800 for WPRB-5. This was a portion of a \$2,073,442 payment to Hawkins Construction. This withdrawal left \$911,989.29 in the bond escrow account. But, the bond escrow account should hold, at minimum, \$1,485,478 (\$815,291 for Western Sarpy/Clear Creek project and \$670,187 for the Floodway Purchase program). At the present time, the Wells Fargo Papio-Missouri NRD bond account #80417800 is short approximately \$573,489 in funds.

APA Response: The APA verified that there was a withdrawal of \$1,019,139.15 made from the account 80417801, leaving a balance of \$911,989.29, per the bank statement provided to the APA by Mr. Japp. However, the APA cannot determine why Mr. Japp is using the July 1, 2012 bond escrow balance for only the WSCC and Floodway projects to come up with a CURRENT "minimum" balance. Additionally, balances noted above are both backwards and incorrect. As previously noted in an APA Response, the \$815,291 balance for the Floodway Purchase project was reduced by a \$550,291 transfer to the Pigeon/Jones project, leaving a balance of \$265,000 for the Floodway Purchase. It is the Western Sarpy/Clear Creek project that had the balance of \$670,187.

It appears there must be multiple sets of books: one that the staff provides the board for budgeting, one for the monthly financial reports, and another for the actual cash transactions reported on the bank statements but are not provided to the board members. For example, the Wells Fargo general fund account #11550068207 shows there was a total of \$22,887,682.87 of withdrawals, but the monthly financial reports provided by staff to the board reported expenses of \$19,686,311.75 – a difference of \$3,201,371.12. Why? I surely think these discrepancies need to be investigated with possible legal action. You are welcome to contact me at any time.

APA Response: Amounts agreed to a reconciliation prepared by Mr. Japp; however, there are many factors that could play a role in the difference noted by the complainant of \$3,201,371.12. It does not appear outstanding checks or any other reconciling items have been considered in the preparation of the information provided by Mr. Japp.

The following additional concern was received by the APA from Mr. Japp on May 2, 2013. Again, the APA's Response to the concern is noted in bold below.

Additional information has been provided to me since I delivered the April 22, 2013 letter asking for and investigation of the Papio-Missouri Natural Resource District and the financial discrepancies. The PMNRD spent \$330,000 for DS 15A (information in attachment) However as provided in attachment no bonds were ever issued for this project. This is just another example of the financial miss information provided to some of the board members and the public.

Papio Missouri NRD
APA's Response to Mr. Japp
June 5, 2013

APA Response: It appears Mr. Japp is referring to the 2010 bond issuance. The resolution approved by the Board for this issuance referenced a "Waterloo Levee" project and did not reference a "Papio DS 15A" project. Bond proceeds of \$300,000 out of the total \$13,300,000 bond issuance were allocated to the "Papio DS 15A" project and \$0 was allocated to a "Waterloo Levee" project.

The APA requested information regarding these projects to the NRD, who provided the following response:

"After consultation and advice from bond counsel from Baird Holm Law Firm and D.A. Davidson it was determined that state statute allows the District to transfer unused bonds funds from one eligible project to another eligible project without a special vote of the Board of Directors. Therefore, both projects are eligible, per law, to be financed with bond revenues."

Further questions regarding this issue should be addressed to legal counsel.